

## Commercial Space Transportation, FAA, DOT

## Pt. 440, Nt.

to be duly executed by their respective duly authorized representatives as of the date written above.

### LICENSEE

By: \_\_\_\_\_  
Its: \_\_\_\_\_

### CUSTOMER

By: \_\_\_\_\_  
Its: \_\_\_\_\_

### DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Its: \_\_\_\_\_

[Doc. No. 28635, 63 FR 45619, Aug. 26, 1998; 63 FR 55175, Oct. 14, 1998]

EFFECTIVE DATE NOTE: By Doc. No. FAA-2005-23449, 71 FR 75632, Dec. 15, 2006, part 440 was revised, effective Feb. 13, 2007. For the convenience of the user, the revised text is set forth as follows:

## PART 440—FINANCIAL RESPONSIBILITY

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AUTHORITY: 49 U.S.C. 70101-70119; 49 CFR 1.47.

### Subpart A—Financial Responsibility for Licensed and Permitted Activities

#### § 440.1 Scope of part.

This part establishes financial responsibility and allocation of risk requirements for any launch or reentry authorized by a license or permit issued under this subchapter.

#### § 440.3 Definitions.

Except as otherwise provided in this section, any term used in this part and defined in 49 U.S.C. 70101-70121, or in § 401.5 of this chapter shall have the meaning contained therein. For purposes of this part—

*Bodily injury* means physical injury, sickness, disease, disability, shock, mental anguish, or mental injury sustained by any person, including death.

*Contractors and subcontractors* means those entities that are involved at any level, directly or indirectly, in licensed or permitted activities, and includes suppliers of property and services, and the component manufacturers of a launch vehicle, reentry vehicle, or payload.

*Customer* means.

(1) Any person:

(i) Who procures launch or reentry services from a licensee or permittee;

(ii) With rights in the payload (or any part of the payload) to be launched or reentered by the licensee or permittee, including a conditional sale, lease, assignment, or transfer of rights;

(iii) Who has placed property on board the payload for launch, reentry, or payload services; or

(iv) To whom the customer has transferred its rights to the launch or reentry services.

(2) A space flight participant, for the purposes of this part, is not a customer.

*Federal range facility* means a U.S. Government-owned installation at which a launch or reentry takes place.

*Financial responsibility* means capable of satisfying a liability obligation as required by 49 U.S.C. Subtitle IX, chapter 701.

*Government personnel* means employees of the United States, its agencies, and its contractors and subcontractors, involved in launch or reentry services for an activity authorized by an FAA license or permit. Employees of the United States include members of the Armed Forces of the United States.

*Hazardous operations* means activities, processes, and procedures that, because of

the nature of the equipment, facilities, personnel, environment involved or function being performed, may result in bodily injury or property damage.

*Liability* means a legal obligation to pay a claim for bodily injury or property damage resulting from a licensed or permitted activity.

*License* means an authorization the FAA issues under this subchapter to launch or reenter a launch or reentry vehicle.

*Licensed activity* means the launch of a launch vehicle or the reentry of a reentry vehicle conducted under a license the FAA issues.

*Maximum probable loss (MPL)* means the greatest dollar amount of loss for bodily injury or property damage that is reasonably expected to result from a licensed or permitted activity;

(1) Losses to third parties, excluding Government personnel and other launch or reentry participants' employees involved in licensed or permitted activities, that are reasonably expected to result from a licensed or permitted activity are those that have a probability of occurrence of no less than one in ten million.

(2) Losses to Government property and Government personnel involved in licensed or permitted activities that are reasonably expected to result from licensed or permitted activities are those that have a probability of occurrence of no less than one in one hundred thousand.

*Permit* means an authorization the FAA issues under this subchapter for the launch or reentry of a reusable suborbital rocket.

*Permitted activity* means the launch or reentry of a reusable suborbital rocket conducted under a permit issued by the FAA.

*Property damage* means partial or total destruction, impairment, or loss of tangible property, real or personal.

*Regulations* mean the Commercial Space Transportation Licensing Regulations codified at 14 CFR Ch. III.

*Third party* means

(1) Any person other than:

(i) The United States, any of its agencies, and its contractors and subcontractors involved in launch or reentry services for a licensed or permitted activity;

(ii) A licensee, permittee, and its contractors and subcontractors involved in launch or reentry services for a licensed or permitted activity;

(iii) A customer and its contractors and subcontractors involved in launch or reentry services for a licensed or permitted activity;

(iv) A member of a crew; and

(v) A space flight participant.

(2) Government personnel, as defined in this section, are third parties.

*United States* means the United States Government, including each of its agencies.

#### § 440.5 General.

(a) No person may commence or conduct any launch or reentry activity that requires a license or permit unless that person has demonstrated compliance with the requirements of this part.

(b) The FAA will prescribe the amount of financial responsibility a licensee or permittee must obtain and any adjustments of the amount in a license or permit order issued concurrent with or subsequent to the issuance of a license or a permit.

(c) Demonstration of financial responsibility under this part shall not relieve a licensee of ultimate responsibility for liability, loss, or damage sustained by the United States resulting from a licensed activity, except to the extent that:

(1) Liability, loss, or damage sustained by the United States results from willful misconduct of the United States or its agents;

(2) Any covered claim of a third party for bodily injury or property damage arising out of any particular licensed activity exceeds the amount of financial responsibility required under § 440.9(c) of this part and does not exceed \$1,500,000,000 (as adjusted for inflation) above such amount, and are payable pursuant to 49 U.S.C. 70113 and § 440.19 of this part. A claim of an employee of any entity listed in paragraphs (1)(ii) through (1)(iii) in the *Third party* definition in § 440.3 of this part for bodily injury or property damage is not a covered claim;

(3) A covered claim for property loss or damage exceeds the amount of financial responsibility required under § 440.9(e) of this part and does not result from willful misconduct of the licensee; or

(4) The licensee has no liability for covered claims by third parties for bodily injury or property damage arising out of any particular launch or reentry that exceeds \$1,500,000,000 (as adjusted for inflation) above the amount of financial responsibility required under § 440.9(c).

(d) Demonstration of financial responsibility under this part does not relieve a permittee of ultimate responsibility for liability, loss, or damage sustained by the United States resulting from a permitted activity, except to the extent that:

(1) Liability, loss, or damage sustained by the United States results from willful misconduct of the United States or its agents; or

(2) A covered claim for property loss or damage to the United States exceeds the amount of financial responsibility required under § 440.9(e) and does not result from willful misconduct of the permittee.

(e) A licensee's or permittee's failure to comply with any requirement of this part may result in suspension or revocation of a license or permit, and subject the licensee or permittee to civil penalties as provided in part 405 of this chapter.